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09/307,004	05/07/1999	RICHARD HUMPLEMAN	SAM1.0061	4283

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EXAMINER

CARDONE, JASON D

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/307,004

Applicant(s)

HUMPLEMAN ET AL.

Examiner

Jason D Cardone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-27 is/are allowed.
- 6) ☒ Claim(s) 28-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to the amendment of the applicant, filed on 11/23/04.

Claims 1-33 are presented further examination.

### ***Terminal Disclaimer***

2. The terminal disclaimer filed on 11/23/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of USPN 6,198,479, 6,288,716, 6,466,971 and 6,546,419 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 28, 30, 32 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Lea et al. ("Lea"), USPN 6,032,202.

5. Regarding claims 28 and 30, Lea discloses, in a network system for providing a service, a controller comprising an agent that: queries a device to obtain application interface description data when the device is connected to the network, such that the application interface description data includes information for commanding and

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controlling of the device by another device connected to the network [Lea, col. 2, line 43 – col. 3, line 39, col. 9, line 41 – col. 10, line 52 and col. 25, line 23 – col. 26, line 23]; stores the obtained application interface description data in a database [ie. registry, Lea, col. 16, lines 9-13 and col. 24, line 60 – col. 25, line 10] and makes accessible an application interface description of a device from the database for interaction with that device utilizing the application interface description [Lea, col. 16, lines 9-13 and col. 24, line 60 – col. 25, line 10].

6. Regarding claims 32 and 33, Lea further discloses a first device accesses an application interface description for another device in the database and sends control and command data to that other device utilizing the application interface description [Lea, col. 2, line 43 – col. 3, line 39, col. 16, lines 9-13 and col. 24, line 60 – col. 25, line 10].

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lea in view of Dan et al. ("Dan"), USPN 6,560,639.

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9. Regarding claims 29 and 31, Lea substantially discloses the claimed invention.

Lea does not specifically disclose that at least one application interface description data includes XML format. However, Dan, in the same field of endeavor, discloses an application interface description data includes XML format [Dan, col. 2, lines 31-67 and col. 20, lines 17-54]. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate XML format, taught by Dan, into the interface description data, taught by Lea, in order to send commands to the device over the Internet.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 28, 30, 32 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Buickel et al. ("Buickel"), USPN 5,740,362

12. Regarding claims 28 and 30, Buickel discloses, in a network system for providing a service, a controller comprising an agent that: queries a device to obtain application interface description data when the device is connected to the network, such that the application interface description data includes information for commanding and

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controlling of the device by another device connected to the network [ie. binding information (interfaces) for agents, Buickel, col. 3, lines 7-31 and col. 5, lines 49-67]; stores the obtained application interface description data in a database [ie. agent list, Buickel, col. 4, lines 26-42 and col. 5, lines 49-67] and makes accessible an application interface description of a device from the database for interaction with that device utilizing the application interface description [Buickel, col. 5, lines 49-67].

13. Regarding claims 32 and 33, Buickel further discloses a first device accesses an application interface description for another device in the database and sends control and command data to that other device utilizing the application interface description [Buickel, col. 4, lines 26-42 and col. 5, lines 49-67]

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buickel in view of Dan et al. ("Dan"), USPN 6,560,639.

16. Regarding claims 29 and 31, Buickel substantially discloses the claimed invention. Buickel does not specifically disclose that at least one application interface description data includes XML format. However, Dan, in the same field of endeavor,

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discloses an application interface description data includes XML format [Dan, col. 2, lines 31-67 and col. 20, lines 17-54]. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate XML format, taught by Dan, into the interface description data, taught by Buickel, in order to send commands to the device over the Internet.

***Allowable Subject Matter***

17. Claims 1-27 are allowed.

***Response to Arguments***

18. Applicant's arguments filed 11/23/04 have been fully considered but they are not persuasive.

19. (A) Lea does not disclose a database of device interface descriptions. Lea, also, does not disclose placing the interface description of the home network devices in the database for access by the home network devices to perform command and control.

As to point (A), Lea does disclose a database (registry) where the device interface descriptions are stored for command and control of that device by other devices [ie. registry, Lea, col. 16, lines 9-13]. Giving the instant claims their broadest reasonable interpretation; "database" is broad enough to read on the registry disclosed by Lea, as shown above. The instant claim language broadly discloses a database. It is noted that the feature upon which applicant relies (i.e., "perform command and control therebetween") is not recited in the rejected claim(s). Although the claims are

interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

20. (B) Lea does not disclose a process wherein to command and control a first device, a second device accesses that database to obtain the interface description of the first device, to send command and control data to the first device, whereby the first and second devices autonomously provide a service for the user.

As to point (B), it is noted that the features upon which applicant relies (i.e., “to command and control a first device, a second device accesses that database to obtain the interface description of the first device, to send command and control data to the first device, whereby the first and second devices autonomously provide a service for the user”) are not recited in the rejected claim(s). Though claims 1-27 show these types of limitations, the limitations are not disclosed in claims 28-33. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

21. (C) No motivation suggested by either reference to combine Lea and Dan.

As to point (C), the motivation of sending commands to the device over the Internet instead of just a LAN shows improvement in technology. Also, the user-friendliness of the Internet, since the Internet is world wide, is motivation to improve the invention of Lea. Also, Dan discloses advantage of permitting users to interface with a web management tool through an Internet browser [Dan, col. 2, lines 29-41] The



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examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

22. (D) Improper hindsight

As to point (D), in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

**Conclusion**

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason D Cardone whose telephone number is (571) 272-3933. The examiner can normally be reached on Mon.-Thu. (6AM-3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (571) 272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason D Cardone  
Primary Examiner  
Art Unit 2145

March 10, 2005